

Association of Montana Public Health Officials

A leadership and policy development organization representing Lead Local Public Health Officials across Montana

Montana Public Health Association

A diverse organization of public health professionals seeking optimal health and working to shape public health policy for all Montanans

Montana Environmental Health Association

An organization dedicated to maintaining and improving the standards of performance of professionals in Environmental Health and providing a healthful environment for all

March 11, 2013

Representative Lee Randall, Chair
House Agricultural Committee
Montana State House of Representatives
Helena, MT 59620

RE: LETTER OF OPPOSITION

SB-94 –An act exempting the exchange of certain foods and beverages from food safety regulations; and amending section 50-50-102, MCA

Dear Representative Randall, Chair, and Members of the Committee:

The Association of Montana Public Health Officials (AMPHO), the Montana Environmental Health Association (MEHA), and the Montana Public Health Association (MPHA), their leadership, and their respective members individually and collectively have a vested interest in protecting and improving the health, environment, safety, and well being of all Montanans through an improved, expanded, comprehensive, and appropriately resourced statewide public health system.

The Montana Environmental Health Association is an organization of public health professionals such as Registered Sanitarians, environmental consultants, and other health professionals dedicated to protecting our everyday environment. A few areas that Registered Sanitarian's strive to ensure the daily health of for the public are Montana's licensed food establishments, public water systems, air quality and wastewater systems.

The intent of the proposed language is very unclear and public health is at risk by allowing the language as proposed to go forward. The following are questions which require clarification:

1. What does gathering to exchange mean?

Proposed language: 4(b) *The term does not include people who gather to exchange.* This is vague language and causes confusion within statute. If meant for private groups of citizens to exchange, without licensure, 50-50-102 (7)(b)(2) (defines Food Service Establishment) already allows for this. No change from current statute would be necessary. No licensure is currently required for private organizations serving food only to its members. If a private group of canners wished to exchange only among their "group or members", current statute allows for this without any regulation. **If the group broadens and involves the public, licensure is currently required.**

The question then becomes, does the bill seek to allow private groups of citizens to exchange with the public (i.e. no longer only for its members)? If so, the language should be clarified. Specifically, this organization requests to understand of the language as written in 4(b):

- A. What "people"? Private or public or both?
- B. What does "gather to exchange" imply? Private gatherings or public gatherings?
- C. Is the bill intention to create an exemption from licensure for public exchange of canned goods? If so, the language should specifically state this in the correct section of statute.

2. The proposed language in 4(b)(i) is incorrect with regard to the definition of "high acid". The proposed language leads one to believe that the listed foods are high-acid foods (a natural pH of 4.6 or below) which could carry slightly less risk than acidified foods, however still require process controls for safety and currently are regulated by federal and state laws.

The proposed language: *high-acid canned goods, including but not limited to tomato sauce, fruits, pickles, or other vinegar-based foods;*

In several ways does not make sense:

- A. Tomato sauce is not considered a high-acid food which makes it even more necessary to have process controls for safety.
- B. Only certain fruits are classified as high acid, thus furthering the importance for process controls to assure food safety.
- C. Pickled foods are described in the Code of Federal Regulations 21CFR 114 and classified as **acidified foods** (not high-acid foods, pH naturally below 4.6). Acidified foods have specific processes required in order to assure food safety.

This section is of specific concern, not only because it improperly defines "high acid" foods, but because allowing acidified foods to be exchanged in a public manner (if the desire of this bill), presents the risk of botulism poisoning. Any improperly processed acidified food subjects the public to this very dangerous health hazard. Botulinum poisoning is a life threatening disease caused by ingesting the potent neurotoxin produced during the growth of *C. botulinum* bacteria. The toxin affects the central nervous system and can destroy, paralyze or adversely affect nerves and nerve tissue. Death usually occurs by respiratory failure/asphyxia. Health care costs related to botulism are generally extremely high.

3. The intent of the addition of (4)(b)(ii) **Home Brewed Beer** is unclear.

Again, the question as to whether this is exchange among private groups of citizens or for the public with or without charge applies (reference number one above) with regard to required licensure. Additionally, Department of Revenue/alcohol sales and tax issues may apply.

4. The proposed language of (4)(b)(iii) **dehydrated fruits and vegetables** is unclear. The current statute exempts unprocessed dehydrated fruits and vegetables from licensure at farmer's markets.

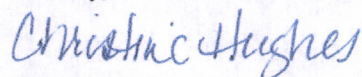
Statute 50-50-102 (16) "Raw and unprocessed farm products" means fruits, vegetables, and grains sold at a farmer's market in their natural state that are not packaged and labeled and are not:

- (a) cooked;
- (b) canned;
- (c) preserved, **except for drying**;
- (d) combined with other food products; or
- (e) peeled, diced, cut, blanched, or otherwise subjected to value-adding procedures.

The bill as proposed is unclear to the point of being dangerous for public health. Many items require clarification. If the attempt is to allow exchange of canned and other goods in a public fashion, this must be clarified. Additional correction should be made with respect to the term "high acid food" as the current proposal uses incorrect terminology. Additional thought should be given as to whether acidified foods should be allowed to be unlicensed. Unlicensed acidified foods put public health at risk for serious forms of foodborne illness. Currently, only two states allow the sale of acidified foods without some form of licensure, education or recipe control in place. Straying from licensure of canned items meant for the public puts the public at great risk.

When deciding your vote, please keep the safety of public health in mind as well as the items that should be clarified in this bill proposal. As written, this bill contains vague language that leaves the public at risk and health regulators unclear as to what they are regulating. We urge you to vote NO on Senate Bill 94.

Sincerely,



Christine Hughes

Registered Sanitarian, MEHA

AMPHO/MEHA/MPHA Joint Advocacy Committee